

Remarks

This Amendment is submitted in response to the Office Action mailed on April 22, 2004. Claims 1-10 are currently pending, claims 1, 4-6, 9 and 10 have been amended, claims 11-21 are new, and claims 2, 3 and 8 have been cancelled. Applicant respectfully submits that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

Allowable Claims

Applicant notes with appreciation the Examiner's indication of allowable subject matter in claims 4-7. However, as the independent claim from which these claims directly or indirectly depend is deemed to be in patentable condition, Applicant has elected not to rewrite these claims in independent form as suggested by the Examiner.

Objection to the Specification

The specification and abstract stand objected to because of various informalities. Applicant has amended the specification and abstract to address the specific informalities noted by the Examiner. Applicant therefore requests that these objections to the specification and abstract be withdrawn.

Rejection of Claims Under 35 U.S.C. § 112

Claims 1, 6 and 7 stand rejected under 35 U.S.C. § 112, first paragraph, as being indefinite. In view of Applicant's claim amendments, Applicant respectfully requests that this rejection be withdrawn.

Rejections of Claims Under 35 U.S.C. § 102

Claims 1 and 8 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,471,167 (Myers et al.). Of the rejected claims, claim 1 is the only independent

claim and claim 8 has been cancelled. The Examiner contends that Myers et al. shows or teaches all the elements of the rejected claims, which is an absolute requirement for anticipation under 35 U.S.C. § 102. Applicant respectfully disagrees for the reasons set forth below.

Claim 1 has been amended to include subject matter formerly set forth in original dependent claim 2, which was not rejected as anticipated by Myers et al. and is now cancelled. As amended, claim 1 now recites "a work surface", "a patient support surface", "a first hinge member coupled with said patient support surface", "a second hinge member coupled with said work surface", and "a hinge pin journaled with said first hinge member and said second hinge member to define an axis of rotation about which said second hinge member and said work surface are rotatable relative to said first hinge member and said patient support surface." Myers et al. fails to disclose or suggest, at the least, a hinge pin journaled with first and second hinge members and, hence, Myers et al. does not anticipate independent claim 1. For at least this reason, Applicant respectfully requests that this rejection be withdrawn.

Rejections of Claims Under 35 U.S.C. § 103

Claims 2 and 3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 1,862,237 (Pepler) in view of Myers et al. As mentioned above, the subject matter formerly set forth in original dependent claim 2, now cancelled, has been added by amendment to independent claim 1. In addition, the subject matter formerly set forth in original dependent claim 3, now cancelled, has also been added by amendment to independent claim 1. Applicant traverses the Examiner's rejection of claims 2 and 3, which now pertains to claim 1, for the reasons set forth below.

Claim 1 further recites that the hinge pin is "moveable relative to said first hinge member and said second hinge member between an unlatched position in which said second

hinge member and said work surface are angularly rotatable about said axis of rotation and a latched position in which said second hinge member and said work surface are locked against rotation relative to said axis of rotation." Neither Pepler nor Myers et al. discloses a hinge pin with this structure.

Myers et al. discloses at column 3, lines 41-53 that a bracket (102) positioned between tray (110) and the patient support surface (12) may include a rotatable joint that arguably permits rotation of the tray (110). However, Myers et al. does not teach, disclose or suggest any structure for locking the joint against rotation, much less a locking structure that includes a hinge pin moveable between unlatched and latched positions, as set forth in Applicant's claim 1.

Pepler discloses a hinge pin (11) mounted by a pair of hinge members (10) to a work surface (1). Although each of the hinge members (10) is attached to the work surface (1), neither of the hinge members (10) is coupled with the patient support surface. Therefore, each of the hinge members (10) is coupled only with the work surface (1). This differs from Applicant's claim 1, which sets forth that the first hinge member is coupled with the patient support surface and the second hinge member is coupled with the work surface. Furthermore, Pepler does not teach, disclose or suggest that the hinge pin (11) is moveable, much less that the hinge pin (11) is movable along its axis of rotation between an unlatched position that permits angular rotation of the work surface (1) and a latched position in which the work surface (1) is locked against rotation each hinge member (10), as set forth in Applicant's claim 1. Instead, Pepler includes clamp screws (12), which are clearly visible in Figures 2 and 4 of Pepler. When loosened, the clamp screws (12) permit rotation of the work surface (1) about an axis of rotation defined by the

hinge pin (11). Movement of the hinge pin (11) does not act to permit rotation of the work surface (1).

Therefore, even if Pepler and Myers et al. were combined, the resultant surgical table would not include every element of as-amended claim 1. For this reason alone, the Examiner has failed to establish *prima facie* obviousness. Therefore, Applicant submits that claim 1 is patentable and that the rejection of dependent claims 2 and 3, which were added by amendment to claim 1, should be withdrawn.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Myers et al. in view of U.S. Patent No. 3,859,993 (Bitner). As claim 9 depends from independent claim 1, Applicant submits that this claim is also patentable for at least the same reasons as claim 1. Furthermore, this claim recites a unique combination of elements not taught, disclosed or suggested by Myers et al. and Bitner.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Myers et al. in view of U.S. Patent No. 2,753,233 (Rock). As claim 10 depends from independent claim 1, Applicant submits that this claim is also patentable for at least the same reasons as claim 1. Furthermore, this claim recites a unique combination of elements not taught, disclosed or suggested by Myers et al. and Rock.

New Claims

Claims 11-21, of which claim 14 is the only independent claim, have been submitted as new claims in which the combinations of recited elements are neither disclosed nor suggested by the art of record. Moreover, claims 11-13 depend from a patentable claim 1. In addition, the claim language set forth in independent claim 14 is analogous to the claim language found in independent claim 1. Therefore, Applicant submits that independent claim 14, and

claims 15-21 depending therefrom, are patentable for at least the same reasons as independent claim 1.

CONCLUSION

Applicant has made a bona fide effort to respond to each and every requirement set forth in the Office Action. In view of the foregoing amendments and remarks, this application is submitted to be in complete condition for allowance and, accordingly, a timely notice of allowance to this effect is earnestly solicited. In the event that any issues remain outstanding, the Examiner is invited to contact the undersigned to expedite issuance of this application.

Applicant does not believe fees are due in connection with filing this communication. If, however, additional fees are necessary as a result of this communication, the Commissioner is hereby authorized to charge any under-payment or fees associated with this communication or credit any over-payment to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

William R. Allen
William R. Allen
Reg. No. 48,389

2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202
(513) 241-2324
(513) 421-7269 (fax)